

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

|                                   |   |                          |
|-----------------------------------|---|--------------------------|
| MANIE LEIGH FOSKEY, III,          | ) |                          |
|                                   | ) |                          |
| Plaintiff,                        | ) |                          |
|                                   | ) |                          |
| v.                                | ) | Civil Action No. 05-1566 |
|                                   | ) | Judge Conti              |
| JEFFERY A. BEARD, <i>et al.</i> , | ) | Magistrate Judge Caiazza |
|                                   | ) |                          |
|                                   | ) |                          |
| Defendants.                       | ) |                          |

**MEMORANDUM ORDER**

Manie Leigh Foskey filed a Complaint pursuant to the provisions of 42 U.S.C. §1983 on November 14, 2005. It was referred to United States Magistrate Judge Francis X. Caiazza for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation, filed on July 6, 2007, recommended that the Defendants' Motion for Summary Judgment be granted with respect to the two remaining issues in this matter. The parties were allowed ten days from the date of service to file objections. Service was made on the Plaintiff by First Class United States Mail delivered to his place of incarceration, the State Correctional Institution at Fayette, located in Labelle, Pennsylvania. The Plaintiff filed Objections on July 23, 2007 (Doc. 56) raising issues already addressed in the Magistrate Judge's Report.

After de novo review of the pleadings and documents in the case, together with the Report and Recommendation and the Plaintiff's Objections, the following Order is entered:

AND NOW, this 14<sup>th</sup> day of August, 2007,

IT IS HEREBY ORDERED that the Defendants' Motion for Summary Judgment (Doc. 38) is GRANTED with respect to the Plaintiff's Fifth and Fourteenth Amendment claim.

The Report and Recommendation of Magistrate Judge Caiazza, (Doc. 55), dated July 6, 2007, is adopted as the opinion of the court.

\_\_\_\_\_  
s/Joy Flowers Conti  
Joy Flowers Conti  
U.S. District Court Judge

cc:  
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